

1 AN ACT concerning professional regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Foreclosed Home Receiver License Act.

6 Section 5. Purpose. The intent of the General Assembly in
7 enacting this Act is to evaluate the competency of persons,
8 including any entity, engaged in the foreclosed home receiver
9 business and to regulate and license those persons engaged in
10 this business for the protection of the public.

11 Section 10. Definitions. In this Act:

12 "Bank" means any person doing a banking business whether
13 subject to the laws of this State or any other jurisdiction.

14 "Department" means the Department of Financial and
15 Professional Regulation.

16 "Home" means real property that is used or intended to be
17 used as the principal place of residence of one or more
18 individuals.

19 "Foreclosed home receiver" means any person who acts as a
20 receiver of a home foreclosed on by a bank or trust or any
21 person to whom a receiver delegates managerial functions
22 concerning a home foreclosed on by a bank or trust.

1 "Licensee" means a foreclosed home receiver licensed under
2 this Act.

3 "Person" means an individual, corporation, limited
4 liability company, partnership, joint venture, trust, estate,
5 or unincorporated association.

6 "Secretary" means the Secretary of Financial and
7 Professional Regulation.

8 "Trust" means any trust company or any other corporation
9 qualified to act as a fiduciary in this State.

10 Section 15. Exemptions. A full or part-time employee of a
11 bank or trust who acts as a receiver of homes foreclosed on by
12 that bank or trust shall be exempt from licensure under this
13 Act, but must comply with Section 23 of this Act.

14 Section 20. Unlicensed practice; civil penalty.

15 (a) Any person who practices, offers to practice, attempts
16 to practice, or holds himself or herself out to practice as a
17 foreclosed home receiver without being licensed under this Act
18 shall, in addition to any other penalty provided by law, pay a
19 civil penalty to the Department in an amount not to exceed
20 \$10,000 for each offense as determined by the Department. The
21 civil penalty shall be assessed by the Department after a
22 hearing is held in accordance with the provisions set forth in
23 this Act regarding the provision of a hearing for the
24 discipline of a licensee.

1 (b) Any licensee under this Act who delegates managerial
2 functions related to the foreclosed home to a person who is not
3 licensed under this Act shall, in addition to any other penalty
4 provided by law, pay a civil penalty to the Department in an
5 amount not to exceed \$10,000 for each offense as determined by
6 the Department. The civil penalty shall be assessed by the
7 Department after a hearing is held in accordance with the
8 provisions set forth in this Act regarding the provision of a
9 hearing for the discipline of a licensee.

10 (c) The Department has the authority and power to
11 investigate any and all unlicensed activities.

12 (d) The civil penalty imposed under this Section must be
13 paid within 60 days after the effective date of the order
14 imposing the civil penalty. The order shall constitute a
15 judgment and may be filed and execution had thereon in the same
16 manner as any judgment from any court of record.

17 Section 23. Personal property requirements; public
18 posting.

19 (a) If a foreclosed home receiver takes possession of a
20 foreclosed home, then the foreclosed home receiver shall hold
21 onto and preserve all remaining personal property of the
22 mortgagor or former occupant for at least 30 days or until the
23 mortgagor or occupant releases his or her claim to his or her
24 property in writing, whichever is sooner. The Department may by
25 rule afford exceptions to the requirements of this subsection

1 (a) for perishable items, such as food, or other items that the
2 Department determines may pose a health risk to the public or
3 may risk damage to other personal property or the home itself.

4 (b) The foreclosed home receiver may keep the remaining
5 personal property in the home or store the personal property at
6 another location which shall be reasonably accessible to the
7 public. A mortgagor or former occupant may reclaim his or her
8 personal property free of charge at this location.

9 (c) Upon possession of the foreclosed home, the foreclosed
10 home receiver shall make a public posting at the entrance of
11 the home that notifies the mortgagor or any occupant of the
12 following:

13 (1) The contact information of the receiver, including
14 phone number and address.

15 (2) The full name of the specific individual who is
16 responsible for preserving his or her personal property and
17 the location at which the personal property is stored and
18 may be reclaimed by the mortgagor or occupant, free of
19 charge.

20 (3) The phone number of the Consumer Fraud Hotline of
21 the Illinois Attorney General.

22 The public posting shall include the following language in
23 12-point boldface capitalized type:

24 THIS HOME HAS BEEN FORECLOSED.

25 THE PERSONAL PROPERTY WITHIN THE HOME MAY BE REDEEMED

1 WITHIN 30 DAYS OF THIS POSTING.

2 DO NOT ENTER THIS HOME - VIOLATORS ARE SUBJECT TO
3 ARREST FOR CRIMINAL TRESPASS.

4 ARRANGEMENTS TO REDEEM THE PERSONAL PROPERTY INSIDE
5 THE HOME MAY BE MADE BY CONTACTING:

6 The requirements of this subsection (c) are in addition to
7 any other provision of State law related to the public posting
8 of information that applies to a foreclosed home receiver.

9 Section 25. Powers and duties of the Department.

10 (a) The Department shall exercise the powers and duties
11 prescribed by the Civil Administrative Code of Illinois for the
12 administration of licensing Acts and shall exercise the powers
13 and duties vested in it by this Act.

14 (b) The Department shall adopt rules necessary for the
15 administration and enforcement of this Act, including rules
16 concerning the standards and criteria for licensure, payment of
17 applicable fees, and hearings.

18 (c) The Department must prescribe forms required for the
19 administration of this Act.

20 Section 35. Licensure requirements.

21 (a) Every person applying to the Department for licensure
22 must do so in writing on forms prescribed by the Department and
23 pay the required nonrefundable fee. The application shall
24 include without limitation all of the following information:

1 (1) The name, principal place of business, address, and
2 telephone number of the applicant.

3 (2) Verification satisfactory to the Department that
4 the applicant is at least 18 years of age.

5 (3) Verification satisfactory to the Department that
6 the applicant does not have a criminal record.

7 (b) The Department may establish further requirements for
8 registration by rule.

9 Section 40. Current address. Every licensee under this Act
10 must maintain a current address with the Department. It shall
11 be the responsibility of the licensee to notify the Department
12 in writing of any change of address.

13 Section 45. Renewal; restoration; military service.

14 (a) The expiration date and renewal period for each license
15 issued under this Act shall be set by the Department by rule.

16 (b) Any person who has permitted his or her license to
17 expire may have his or her license restored by applying to the
18 Department, filing proof acceptable to the Department of his or
19 her fitness to have the license restored, which may include
20 sworn evidence certifying to active practice in another
21 jurisdiction satisfactory to the Department, and paying the
22 required restoration fee. If the person has not maintained an
23 active practice in another jurisdiction satisfactory to the
24 Department, then the Department shall determine, by an

1 evaluation program established by rule, the person's fitness to
2 resume active status and may require the successful completion
3 of an examination.

4 (c) Any person whose license has expired while he or she
5 has been engaged (i) in federal service on active duty with the
6 Armed Forces of the United States or the State Militia called
7 into service or training or (ii) in training or education under
8 the supervision of the United States preliminary to induction
9 into the military service, may have his or her license renewed
10 or restored without paying any lapsed renewal fees if, within 2
11 years after termination of service, training, or education,
12 other than by dishonorable discharge, he or she furnishes the
13 Department with satisfactory evidence to the effect that he or
14 she has been so engaged and that the service, training, or
15 education has been so terminated.

16 Section 50. Inactive status.

17 (a) Any person who notifies the Department in writing on
18 forms prescribed by the Department may elect to place his or
19 her license on inactive status and shall be excused from
20 payment of renewal fees until he or she notifies the Department
21 in writing of his or her desire to resume active status.

22 (b) Any person whose license has been expired for more than
23 3 years may have his or her certificate restored by making
24 application to the Department and filing proof acceptable to
25 the Department of his or her fitness to have his or her license

1 restored, including evidence certifying to active practice in
2 another jurisdiction, and by paying the required restoration
3 fee.

4 (c) Any licensee whose license is on inactive status, has
5 been suspended or revoked, or has expired may not represent
6 himself or herself to be a licensed foreclosed home receiver or
7 use the title "licensed foreclosed home receiver".

8 Section 55. Fees; disposition of funds.

9 (a) The Department shall establish by rule a schedule of
10 fees for the administration and maintenance of this Act. Such
11 fees shall be nonrefundable.

12 (b) All fees and fines collected pursuant to this Act shall
13 be deposited in the General Professions Dedicated Fund. All
14 moneys deposited into the Fund may be used for the expenses of
15 the Department in the administration of this Act.

16 Section 60. Roster. The Department shall maintain a roster
17 of the names and addresses of all licensees under this Act.
18 This roster shall be made available upon written request and
19 payment of the required fee.

20 Section 65. Advertising. Any person licensed under this Act
21 may advertise the availability of professional services in the
22 public media or on the premises where such professional
23 services are rendered, provided that such advertising is

1 truthful and not misleading.

2 Section 70. Injunction; criminal penalty; cease and desist
3 order.

4 (a) If any person violates the provisions of this Act, the
5 Secretary may, in the name of the People of the State of
6 Illinois and through the Attorney General or the State's
7 Attorney of any county in which the action is brought, petition
8 for an order enjoining such violation and for an order
9 enforcing compliance with this Act. Upon the filing of a
10 verified petition in court, the court may issue a temporary
11 restraining order, without notice or bond, and may
12 preliminarily and permanently enjoin such violation. If it is
13 established that such person has violated or is violating the
14 injunction, the Court may punish the offender for contempt of
15 court. Proceedings under this Section shall be in addition to,
16 and not in lieu of, all other remedies and penalties provided
17 by this Act.

18 (b) If any person holds himself or herself out as a
19 "licensed foreclosed home receiver" without being licensed
20 under the provisions of this Act, then any interested party or
21 person injured thereby may, in addition to the Secretary,
22 petition for relief as provided in subsection (a) of this
23 Section.

24 (c) Whoever holds himself or herself out as a "licensed
25 foreclosed home receiver" in this State without being licensed

1 for that purpose is guilty of a Class A misdemeanor, and for
2 each subsequent conviction, is guilty of a Class 4 felony.

3 (d) Whenever, in the opinion of the Department, a person
4 violates any provision of this Act, the Department may issue a
5 rule to show cause why an order to cease and desist should not
6 be entered against that person. The rule shall clearly set
7 forth the grounds relied upon by the Department and shall allow
8 the person at least 7 days after the date of the rule to file an
9 answer that is satisfactory to the Department. Failure to
10 answer to the satisfaction of the Department shall cause an
11 order to cease and desist to be issued.

12 Section 75. Disciplinary grounds.

13 (a) The Department may refuse to issue or renew, or may
14 revoke, suspend, place on probation, reprimand, or take other
15 disciplinary action as the Department considers appropriate,
16 including the issuance of fines not to exceed \$10,000 for each
17 violation, with regard to any license for any one or more of
18 the following causes:

19 (1) Violation of this Act or any rule adopted under
20 this Act.

21 (2) Conviction of any crime under the laws of any U.S.
22 jurisdiction that is a felony or a misdemeanor an essential
23 element of which is dishonesty or that directly relates to
24 the practice of the profession.

25 (3) Making any misrepresentation for the purpose of

1 obtaining a license.

2 (4) Professional incompetence or gross negligence in
3 the practice of building contracting.

4 (5) Gross malpractice, prima facie evidence of which
5 may be a conviction or judgment of malpractice in any court
6 of competent jurisdiction.

7 (6) Aiding or assisting another person in violating any
8 provision of this Act or any rule adopted under this Act.

9 (7) Failing, within 60 days, to provide information in
10 response to a written request made by the Department that
11 has been sent by certified mail to the licensee's last
12 known address.

13 (8) Engaging in dishonorable, unethical, or
14 unprofessional conduct of a character likely to deceive,
15 defraud, or harm the public.

16 (9) Habitual or excessive use of or addiction to
17 alcohol, narcotics, stimulants, or any other chemical
18 agent or drug that results in the inability to practice
19 with reasonable judgment, skill, or safety.

20 (10) Discipline by another U.S. jurisdiction or
21 foreign nation, if at least one of the grounds for the
22 discipline is the same or substantially equivalent to those
23 set forth in this Section.

24 (11) Directly or indirectly giving to or receiving from
25 any person, firm, corporation, partnership, or association
26 any fee, commission, rebate, or other form of compensation

1 for any professional service not actually rendered.

2 (12) A finding by the Department that a licensee, after
3 having his or her license placed on probationary status,
4 has violated the terms of probation.

5 (13) Conviction by any court of competent
6 jurisdiction, either within or without this State, of any
7 violation of any law governing the practice of building
8 contracting if the Department determines, after
9 investigation, that such person has not been sufficiently
10 rehabilitated to warrant the public trust.

11 (14) A finding that registration has been applied for
12 or obtained by fraudulent means.

13 (15) Practicing, attempting to practice, or
14 advertising under a name other than the full name as shown
15 on the license or any other legally authorized name.

16 (16) Gross and willful overcharging for professional
17 services, including filing false statements for collection
18 of fees or moneys for which services are not rendered.

19 (17) Failure to file a return, to pay the tax, penalty,
20 or interest shown in a filed return, or to pay any final
21 assessment of tax, penalty, or interest as required by any
22 tax Act administered by the Department of Revenue, until
23 such time as the requirements of the tax Act are satisfied
24 in accordance with subsection (g) of Section 15 of the
25 Department of Professional Regulation Law of the Civil
26 Administrative Code of Illinois (20 ILCS 2105/2105-15).

1 (18) Failure to continue to meet the requirements of
2 this Act.

3 (19) Material misstatement in furnishing information
4 to the Department or to any other State agency.

5 (20) Advertising in any manner that is false,
6 misleading, or deceptive.

7 (b) In enforcing this Section, the Department, upon a
8 showing of a possible violation, may order a licensee or
9 applicant to submit to a mental or physical examination, or
10 both, at the expense of the Department. The Department may
11 order the examining physician to present testimony concerning
12 his or her examination of the licensee or applicant. No
13 information shall be excluded by reason of any common law or
14 statutory privilege relating to communications between the
15 licensee or applicant and the examining physician. The
16 examining physicians shall be specifically designated by the
17 Department. The licensee or applicant may have, at his or her
18 own expense, another physician of his or her choice present
19 during all aspects of the examination. Failure of a licensee or
20 applicant to submit to any such examination when directed,
21 without reasonable cause as defined by rule, shall be grounds
22 for either the immediate suspension of his or her license or
23 immediate denial of his or her application.

24 If the Secretary immediately suspends the license of a
25 licensee for his or her failure to submit to a mental or
26 physical examination when directed, a hearing must be convened

1 by the Department within 15 days after the suspension and
2 completed without appreciable delay.

3 If the Secretary otherwise suspends a license pursuant to
4 the results of the licensee's mental or physical examination, a
5 hearing must be convened by the Department within 15 days after
6 the suspension and completed without appreciable delay. The
7 Department shall have the authority to review the licensee's
8 record of treatment and counseling regarding the relevant
9 impairment or impairments to the extent permitted by applicable
10 federal statutes and regulations safeguarding the
11 confidentiality of medical records.

12 Any licensee suspended under this subsection (b) shall be
13 afforded an opportunity to demonstrate to the Department that
14 he or she can resume practice in compliance with the acceptable
15 and prevailing standards under the provisions of his or her
16 license.

17 (c) The Department shall deny a license or renewal
18 authorized by this Act to a person who has defaulted on an
19 educational loan or scholarship provided or guaranteed by the
20 Illinois Student Assistance Commission or any governmental
21 agency of this State in accordance with subdivision (a)(5) of
22 Section 15 of the Department of Professional Regulation Law of
23 the Civil Administrative Code of Illinois (20 ILCS
24 2105/2105-15).

25 (d) In cases where the Department of Healthcare and Family
26 Services (formerly the Department of Public Aid) has previously

1 determined that a licensee or a potential licensee is more than
2 30 days delinquent in the payment of child support and has
3 subsequently certified the delinquency to the Department, the
4 Department may refuse to issue or renew or may revoke or
5 suspend that person's license or may take other disciplinary
6 action against that person based solely upon the certification
7 of delinquency made by the Department of Healthcare and Family
8 Services in accordance with subdivision (a) (5) of Section 15 of
9 the Department of Professional Regulation Law of the Civil
10 Administrative Code of Illinois (20 ILCS 2105/2105-15).

11 Section 80. Investigation; notice of hearing. The
12 Department may investigate the actions or qualifications of any
13 applicant or person holding or claiming to hold a license. The
14 Department shall, before suspending or revoking, placing on
15 probation, reprimanding, or taking any other disciplinary
16 action under Section 75 of this Act, at least 30 days before
17 the date set for the hearing, notify the applicant or licensee
18 in writing of the nature of the charges and that a hearing will
19 be held on the date designated. The written notice may be
20 served by personal delivery or certified mail to the applicant
21 or licensee at the address of his or her last notification to
22 the Department. The Department shall direct the applicant or
23 licensee to file a written answer with the Department, under
24 oath, within 20 days after the service of the notice, and
25 inform the person that if he or she fails to file an answer,

1 his or her certificate may be revoked, suspended, placed on
2 probation, reprimanded, or the Department may take any other
3 additional disciplinary action, including the issuance of
4 fines not to exceed \$1,000 for each violation, as the
5 Department may consider necessary, without a hearing. At the
6 time and place fixed in the notice, the Department shall
7 proceed to hear the charges and the parties or their counsel.
8 All parties shall be afforded an opportunity to present any
9 statements, testimony, evidence, and arguments as may be
10 pertinent to the charges or to their defense. The Department
11 may continue the hearing from time to time.

12 Section 120. Restoration of suspended or revoked license.
13 At any time after the suspension or revocation of any license,
14 the Department may restore it to the licensee, unless after an
15 investigation and hearing, the Department determines that
16 restoration is not in the public interest.

17 Section 125. Surrender of license. Upon the revocation or
18 suspension of any license, the licensee shall immediately
19 surrender his or her certificate to the Department. If the
20 licensee fails to do so, the Department has the right to seize
21 the certificate.

22 Section 130. Summary suspension of a license. The Secretary
23 may summarily suspend a license issued under this Act without a

1 hearing, simultaneously with the institution of proceedings
2 for a hearing provided for in this Act, if the Secretary finds
3 that evidence in the possession of the Secretary indicates that
4 the continuation in practice by the licensee would constitute
5 an imminent danger to the public. In the event that the
6 Secretary temporarily suspends the license of an individual
7 without a hearing, a hearing must be held within 30 days after
8 such suspension has occurred.

9 Section 135. Administrative Review Law; venue.

10 (a) All final administrative decisions of the Department
11 are subject to judicial review under the Administrative Review
12 Law and its rules. The term "administrative decision" is
13 defined as in Section 3-101 of the Code of Civil Procedure.

14 (b) Proceedings for judicial review shall be commenced in
15 the circuit court of the county in which the party applying for
16 review resides, but if the party is not a resident of this
17 State, the venue shall be in Sangamon County.

18 Section 140. Certification of record; costs. The
19 Department shall not be required to certify any record to the
20 court or file an answer in court or to otherwise appear in any
21 court in a judicial review proceeding, unless there is filed in
22 the court with the complaint a receipt from the Department
23 acknowledging payment of the costs of furnishing and certifying
24 the record. Failure on the part of the plaintiff to file such

1 receipt in court shall be grounds for dismissal of the action.

2 Section 145. Administrative Procedure Act. The Illinois
3 Administrative Procedure Act is hereby expressly adopted and
4 incorporated herein as if all of the provisions of that Act
5 were included in this Act, except that the provision of
6 subsection (d) of Section 10-65 of the Illinois Administrative
7 Procedure Act that provides that at hearings the licensee has
8 the right to show compliance with all lawful requirements for
9 retention, continuation, or renewal of the certificate is
10 specifically excluded. For the purposes of this Act, the notice
11 required under Section 10-25 of the Illinois Administrative
12 Procedure Act is deemed sufficient when mailed to the last
13 known address of a party.

14 Section 150. Home rule. A unit of local government,
15 including a home rule unit, may not regulate the practice of
16 foreclosed home receivers in a manner inconsistent with this
17 Act. This Section is a limitation under subsection (i) of
18 Section 6 of Article VII of the Illinois Constitution on the
19 concurrent exercise by home rule units of powers and functions
20 exercised by the State.

21 Section 900. The Regulatory Sunset Act is amended by
22 renumbering and changing Section 8.31 as follows:

1 (5 ILCS 80/4.31)

2 Sec. 4.31 ~~8.31~~. Acts repealed on January 1, 2021. The
3 following Acts are repealed on January 1, 2021:

4 The Crematory Regulation Act.

5 The Cemetery Oversight Act.

6 The Foreclosed Home Receiver License Act.

7 (Source: P.A. 96-863, eff. 3-1-10; revised 1-24-10.)

8 Section 920. The Code of Civil Procedure is amended by
9 changing Section 15-1702 as follows:

10 (735 ILCS 5/15-1702) (from Ch. 110, par. 15-1702)

11 Sec. 15-1702. Specific Rules of Possession. (a)
12 Mortgagee's Rights. No mortgagee shall be required to take
13 possession of the mortgaged real estate, whether upon
14 application made by any other party or otherwise. Whenever a
15 mortgagee entitled to possession so requests, the court shall
16 appoint a receiver. The failure of a mortgagee to request
17 possession or appointment of a receiver shall not preclude a
18 mortgagee otherwise entitled to possession from making such a
19 request at any future time. The appointment of a receiver shall
20 not preclude a mortgagee from thereafter seeking to exercise
21 such mortgagee's right to be placed in possession.

22 (b) Designation of Receivers. Whenever a receiver is to be
23 appointed, the mortgagee shall be entitled to designate the
24 receiver. If the mortgagee is a bank or trust, then the

1 mortgagee may only designate a foreclosed home receiver that is
2 licensed under the Foreclosed Home Receiver License Act. If the
3 mortgagor or any other party to the foreclosure objects to any
4 such designation or designations and shows good cause, or the
5 court disapproves the designee, then the mortgagee in such
6 instance shall be entitled to make another designation.

7 (c) Rights of Mortgagee Having Priority. If a mortgagee
8 having priority objects to the proposed possession by a
9 subordinate mortgagee or by a receiver designated by the
10 subordinate mortgagee, upon entry of a finding in accordance
11 with subsection (d) of Section 15-1702 the court shall instead
12 place that objecting mortgagee in possession or, if a receiver
13 is to be designated in accordance with subsection (b) of
14 Section 15-1702, allow the designation of the receiver to be
15 made by that objecting mortgagee.

16 (d) Removal of Mortgagee in Possession. A mortgagee placed
17 in possession shall not be removed from possession, and no
18 receiver or other mortgagee shall be placed in possession
19 except upon (i) the mortgagee's misconduct, death, legal
20 disability or other inability to act, (ii) appointment of a
21 receiver in accordance with subsection (a) of Section 15-1704
22 or (iii) a showing of good cause by a mortgagee having
23 priority. A receiver shall not be removed solely on account of
24 being designated by a mortgagee later determined not to have
25 priority.

26 (e) Determination of Priority. If the court is required to

1 determine priority for the purposes of subsection (c) of
2 Section 15-1702, a new determination shall be made each time a
3 mortgagee is to be placed in possession or a receiver is to be
4 appointed and shall be an interim determination which shall not
5 preclude the court from making a contrary determination later
6 in the foreclosure. If the court subsequently shall make such a
7 contrary determination, a mortgagee in possession or acting
8 receiver shall not be removed except in accordance with Part 17
9 of this Article.

10 (f) Rights to Crops. With respect to any crops growing or
11 to be grown on the mortgaged real estate, the rights of a
12 holder of any obligation secured by a collateral assignment of
13 beneficial interest in a land trust, the rights of a mortgagee
14 in possession, or the rights of a receiver, including rights by
15 virtue of an equitable lien, shall be subject to a security
16 interest properly perfected pursuant to Article 9 of the
17 Uniform Commercial Code, where the holder of a collateral
18 assignment, mortgagee in possession, or receiver becomes
19 entitled to crops by obtaining possession on or after the
20 effective date of this Amendatory Act of 1988.

21 (Source: P.A. 85-1427.)

22 Section 999. Effective date. This Act takes effect upon
23 becoming law.